

PRIVILEGED AND CONFIDENTIAL
ATTORNEY-CLIENT COMMUNICATION

MEMORANDUM

TO: First Selectman Mike Tetreau, Town of Fairfield

FROM: Robin B. Kallor, Esq., Rose Kallor, LLP

DATE: February 10, 2011

RE: INVESTIGATION REPORT – Assistant Chief George Gomola - Complaint
Against Chief Richard Felner

1. INTRODUCTION

On Thursday, January 19, 2012, First Selectman Tetreau requested that I conduct an independent investigation into a complaint lodged by Assistant Fire Chief, George Gomola (“Gomola”), against Richard Felner, the Fire Chief (“the Chief”). I conducted interviews of the following individuals:

1. George Gomola, Assistant Chief
2. Art Reid, Deputy Chief
3. Kim Massey, personal trainer at Ash Creek Fitness
4. Jennifer Morgan, Secretary to the Fire Marshal
5. Sheila Tessei, Secretary to the Fire Chief
6. Bill Tuttle, Fire Lieutenant and Union Representative
7. Bob Smith, Firefighter and Union Representative
8. Chris Tracey, Assistant Chief
9. Richard Felner, Fire Chief
10. Bill Kessler, Fire Marshal
11. Doug Chavanello, Assistant Chief

I also listened to a voice recording that Gomola made to memorialize a cell phone conversation with the Chief, and reviewed the following documents: Gomola’s complaint, the

PRIVILEGED AND CONFIDENTIAL

Chief's handwritten notes that he wrote after he received a copy of Gomola's complaint, the typewritten version of those notes that Sheila Tessei ("Tessei") prepared at the Chief's request,¹ Gomola's disciplinary documents in his personnel file which were created over the last ten years, a disciplinary document in the Chief's personnel file which was created within the last ten years, an email that Gomola wrote to himself in September 2011 and forwarded to Deputy Chief Art Reid ("Reid") at the time Gomola sent Reid the written complaint about the stairwell incident (January 13, 2012) which Gomola claims memorializes an interaction between he and the Chief during which the Chief touched Gomola's chest.

II. THE COMPLAINT

On January 13, 2012, Assistant Chief Gomola ("Gomola") lodged a complaint by email to Deputy Chief Art Reid ("Reid"). Notably, Gomola verbally reported the same complaint over the telephone to Reid on the afternoon of January 10, 2012. The written complaint follows:²

On Tuesday January 10, 2012 at approximately 1300 hrs and immediately following the Asst. Chief's meeting held at Fire Station #1, Chief Richard Felner asked to see me. "I need to speak to you for a minute." He said and led me into the stairwell on the "D" side of the building. He stopped near the top of the stairs between the landing and the door. I was standing in the short hallway that leads to the TV room with my back to the door. Purposeful or not – I was basically blocked inside this short hallway.

"You worked a school job and then called in sick the next day; your peers are talking about it." He said. I started to explain that I developed a severe headache and diarrhea halfway through the assignment, that my daughter had just gotten over a stomach virus that presented with the same symptoms, that it would have been inappropriate for me to leave the detail for safety reasons, but he was not interested. "If you were sick you should have gone home. It looks bad working the school job and calling in sick.

¹ I compared the written notes written by the Chief and the typewritten version typed by Tessei in terms of the description of the incident. They are basically identical with very minor differences, none of which are relevant.

² There was some information in the Complaint that was omitted from above to the extent it pertained to Gomola's perception of Chief Felner's physical state. The information was of a sensitive nature and appears to be included within the Complaint for Gomola to demonstrate why he did not physically respond after being slapped and does not appear to be relevant to the issue of whether the incident actually occurred.

And I hear you had a root canal on Sunday and called in Sunday night.” I started to reply that yes, I had an emergency procedure done on a tooth that had become infected, that the infection had spread to my jaw, but he interrupted. “Yeah, Curry told me.” He then mentioned something about an exercise bike - and then without warning he hit me in the left side of the face with an open fist. I looked at him in disbelief, trying to process the motive and figure out how to respond. And then he hit me again on the same side of the face.

I have studied martial arts for many years. I have a good working knowledge of exercise physiology and maintain an extremely high level of fitness. More importantly, as a profession fire fighter and Chief Officer I am trained to perform a risk analysis on almost every situation that I deal with.....The location of this altercation – at the top of the stairs and being blocked in the short hallway limited my ability to evade or escape. His physical potential to cause me life threatening harm was extremely limited. A physical response such as a block or evasive technique by me had the potential to create significant harm that could be potentially fatal due to his age and our location at the top of a stairwell. My only option at that time was verbal. I stated in a very loud voice and stern tone “Do not hit me!” With that he struck me on the other side of my face, the side that had the emergency procedure – a pulpectomy, to remove the pulp and allow room for the jaw infection to drain. I am currently taking extremely high dose antibiotics to suppress the infection and reduce the swelling that kept me from work on Sunday night.

After he hit me he smiled – an arrogant smile that basically said – “I can do what I want, I am Chief Felner.” I looked at him and said “you realize that I just had a root canal done on that side of my face.” He said something that I do not recall. I was extremely upset and needed to leave. My gut reaction was to retaliate physically but as a professional fire officer that option was not acceptable. He moved slightly to one side and I was able to open the door that leads to the office and make my way to the stairwell on the other side of the building. As I got in my car to leave I felt a numbness on the right side of my face and a slight pain in the left side of my jaw. Neither of these symptoms had been present prior to this altercation. As stated I was at the time

PRIVILEGED AND CONFIDENTIAL

and are still being treated medically for a jaw infection that had resulted in significant swelling in my face and jaw.

I am not a malicious person and I do not seek to tarnish the reputation of the Fairfield Fire Department or its Fire Chief. I am also a team player that believes in trying to do the right thing by dealing with our own problems in house, man to man, and not washing our dirty laundry in public. If Chief Felner had not hit me a third time after I told him "Do not hit me!," it is quite possible that I would have let this issue slide, documented it for myself, and spoken with Chief Felner man to man at an appropriate time. However, given the fact that I was in a situation where I could not defend myself without consequence, Chief Felner acted as a bully, using his position, his title, and his authority to intimidate and harass. The fact that this incident also includes overt physical contact between a supervisor and a subordinate that resulted in the potential for serious injury by his own admission (he was aware of a recent root canal) demonstrates extremely poor decision making and a conscious discard for the safety of his men.

I did not take the decision to report this issue lightly. I understand the potential ramifications fully. The deciding variable for me as a Chief Fire Officer responsible for the safety and well-being of the men and women with whom I am honored to serve is this: How would I react if one of my men had come to me and presented these facts? What would my reaction have been? Finally – If Chief Felner acted this way towards a highly decorated Asst. Fire Chief with over 30 years of service what would prevent him from acting in a similar manner towards one of our junior officers or firefighters. Leadership is a position of service that carries great responsibility. It is not a license to abuse.

I informed Deputy Chief Art Reid within several hours of the event of the above stated and asked him to keep the matter personal and confidential until I had time to think things through. DC Reid informed me that as my supervisor he has a responsibility to report this incident. I asked him as a personal favor to hold off on doing that until I had time to deal with this on an intellectual as opposed to an emotional level. After giving this much thought I came to the realization that when Chief

PRIVILEGED AND CONFIDENTIAL

Felner struck me the 3rd time, after I told him not to hit me, he eliminated my option of discursion. I am forwarding this matter to Deputy Chief Art Reid to follow up as he deems appropriate. I am willing to testify to the above as needed.

III. INTERVIEWS

Of the interviews that I conducted, the following individuals had first-hand information to share regarding the incident in the stairwell. A summary of their testimony as it pertains to that incident follows.

George Gomola, Assistant Chief

Art Reid, Deputy Chief

Kim Massey, personal trainer at Ash Creek Fitness

Bob Smith, Firefighter and Union Representative

Sheila Tessei, Secretary to the Fire Chief

Richard Felner, Fire Chief

A. GEORGE GOMOLA

George Gomola has been with the Fairfield Fire Department for almost 32 years. He has held the position of Assistant Chief (or Captain which was effectively the same position) for the last 13-15 years. His relationship with the Chief in the last few years has been strained.

On January 10, 2012, Assistant Chief Gomola went to Station 1 to attend an Assistant Chiefs' meeting. These meetings occur monthly and typically last approximately 3-5 hours. Typically, the assistant chiefs discuss issues among themselves and the Chief and the Assistant Chief

At the January 10 meeting, the following items were discussed: (1) challenges at Station 5; (2) training; (3) new equipment; (4) new apparatus; (5) survey results regarding two ladder trucks/ladder truck and rescue; (6) upcoming budget process; and (7) issues the Chief typically raises - don't leave doors open; don't talk on the radio; don't micro-manage.

After the meeting on January 10, the Chief requested to speak with Gomola and led him to the outer stairwell inside the fire house. It is a narrow stairwell to the TV room and down stairs out the door. He was backed in the corner of the alleyway that leads to the TV room. The Chief started talking to Gomola about sick leave. The Chief first said: "So, I hear you called in sick from a basketball game the other night." Gomola said: "What?" The Chief then said: "I understand you called in sick from basketball." Gomola started to say that he was at the game

PRIVILEGED AND CONFIDENTIAL

and started feeling sick and that he had diarrhea and his daughter had just come down with stomach flu and she had the same symptoms. He said that he had one more hour and wanted to tough it out. The Chief then said: "Peers are talking about you. I don't want to hear it! I don't want to hear it! You should have gone home from the game. I heard you called in sick on Sunday, you had a root canal. [Assistant Chief] Curray told me you had a root canal."³ Then, the Chief referred to a discussion about exercise bicycles from the Assistant Chiefs' meeting and the Chief said: "I know people at Fitness Edge."

And then out of the blue, the Chief smacked Gomola in the side of the face. While Gomola was trying to process it and before he could do anything, Chief hit his left side of his face again. Gomola, concerned about reacting, fearing that he might hurt the Chief, just said: "don't hit me; don't hit me!" and the Chief hit him again, this time on other side of face which was the side of the root canal. He then smiled as if to say: "what are you going to do." And Gomola said "you do realize that I had a root canal on this side of my face." Gomola then exited the building. The whole incident took approximately 4-5 minutes. They talked quietly except when Gomola said: "don't hit me."

When asked how hard he was hit, Gomola stated that "it was enough to get his attention." When he left the building and sat in his car, his jaw seemed a little sore and there was numbness on the side of his face with the root canal. Gomola said the pain was not the worst of it; it was the shock that the Chief slapped him even after he said: "Don't hit me."

He left the building and thought about what to do for a while. Three hours after the incident, he then texted Deputy Chief Art Reid and followed up with a call to him to tell him what had happened. Reid said that he had to report this. Gomola requested some time to let emotions fade and make an intellectual decision. Gomola called Art Reid the next day and told Reid that he didn't think he had any choice, and that he was going to submit a written complaint. Gomola sent it to Reid on either Thursday or Friday. Reid said he would forward it to Tom Bremmer. Reid instructed Gomola to notify the union.

Gomola spoke with Bob Smith, the union representative and told him what happened. He also spoke with other union officials: Eric Calliper and Bill Tuttle.

On Tuesday, January 17, while at his gym (a side business), Sheila Tessei called his cell. Gomola answered and Tessei gave the phone to the Chief. Kim Massey, a personal trainer at Gomola's gym was in the room. Gomola put the phone on speaker so Kim could hear the conversation. During this conversation with the Chief, the Chief said that he had been doing a lot of soul searching and apologized for everything he had done, and that he spoke with his wife. He said that if this continued, there would be "mudslinging" and he would have to defend himself and didn't want to put Gomola through that. He mentioned that he had spoken to an attorney. He said that he should not have listened to other people. He requested to meet George

³ The basketball game was December 31, 2011. The root canal was January 8, 2012.

PRIVILEGED AND CONFIDENTIAL

to “work this out like men.” Gomola viewed this conversation as threatening. Gomola responded that the complaint needs to run its course. During that conversation, the Chief mentioned that he had given Gomola “a few shots,” but Gomola was not sure whether he meant the actual slapping or meant “verbal shots.”

Approximately 25 minutes after he got off the phone with the Chief, Gomola recorded his own voice recording on his telephone memorializing and summarizing that conversation. This investigator listened to that recording and the above paragraph was a summary of that voice recording.

Gomola stated that through the years, they do not always agree and that he believes that the Chief is overly critical of him, which Gomola believes is due to their different management styles.

B. DEPUTY CHIEF ART REID

Days before the January 10 Assistant Chiefs’ meeting, the Chief told Reid that Gomola had taken an outside job at Fairfield University and called out sick from that job for the following next day. At face value – Reid agreed with the Chief that it looked strange. The Chief kept bringing it up. Reid recalled, at least at our initial interview, that the Chief also mentioned at some point before the day of the Assistant Chiefs’ meeting that Gomola had recently called out because of a root canal.

Reid did not recall anything out of the ordinary occurring in the Assistant Chiefs’ meeting. He did recall a discussion where the Chief noted that the office at Station 2 smelled like a gym. Reid didn’t recall whether Gomola was singled out, but it seemed obvious to Reid that the Chief was referring to Gomola because Gomola owns a gym. Reid noticed by Gomola’s body language that he was not happy with the Chief for making these comments. Reid did state that the Chief and Gomola do not always see eye to eye.

Reid left for lunch afterwards and left the office. Later in the day after lunch, the Chief reported to Reid that he spoke with Gomola about the time off and that Gomola said that he had a stomach virus and then he had root canal two days later. Reid’s response to the Chief was: “perhaps you got a point across” and then suggested that the Chief “move on.”

Later in the day, Gomola texted Reid that he wanted to speak with him. Thereafter, they spoke on the phone and Gomola stated, in detail, what he later wrote in his written complaint. Gomola stated that he told the Chief that his daughter had just gotten over a stomach virus a few days ago and that he felt it coming on. He also mentioned that he had just had a root canal due to a jaw infection. Gomola mentioned that the Chief cornered him in the hallway to have a discussion about this time off and that he was being a little aggressive and then he “smacked [Gomola] in the face.” Gomola then said that he had told the Chief: “don’t do that” – and then the Chief smacked him again. Reid said that Gomola sounded shaken up. He said that he did

PRIVILEGED AND CONFIDENTIAL

not want to bring that publicity to the Fire Department; but he couldn't let this go. Gomola stated to Reid: "If he is doing this to me, what's he going to be doing to other people."

Reid stated that he needed to report it further and Gomola asked for some time to figure out how he wanted to handle it. Reid said that was fine. A few days later (Friday or Saturday), Gomola emailed him the complaint. Reid sent the Complaint to Tom Bremmer. Reid told Bremmer that he wanted to contact the Chief and let him know.

Reid called the Chief and told him that Gomola filed a written complaint stating that he (the Chief) smacked Gomola. The Chief responded, "I didn't smack him." Reid said that Gomola filed a written complaint, and that it is serious. The Chief said, "I didn't touch anyone." Reid then informed the Chief that the complaint came to him and that he sent it to Tom Bremmer. The Chief asked, "What did you do that for. I wish you would have talked to me first." Reid's response was: "This is serious. I don't want to be Fairfield's Joe Paterno."

On Sunday, January 22, 2012, the Chief's secretary, Sheila Tessei, called from home to state that the Chief requested that Tessei gather Gomola's work history to bring to a meeting she was going to have with him regarding the seating for Swim Across the Sound. Reid called the Chief and told him not to request this information of Tessei. Tessei ended up faxing the benefit information to the Chief's home fax.

At some point after it became apparent that the Town was going to be investigating Gomola's complaint, Tessei approached Reid and told him that the Chief had admitted to slapping Gomola after the incident. Tessei was nervous about this being revealed during the investigation. Reid instructed her to tell the truth during the investigation.

C. BOB SMITH

Smith received a call from Gomola on either Friday (January 13) or Saturday (January 14). Gomola told Smith that he was calling because Reid told him to call the Union to report what had happened with the Chief. He provided the following verbal description: after the Assistant Chiefs' meeting they had a discussion about sick leave and the Chief slapped Gomola and George was taken aback and then the Chief slapped him again and Gomola said "I just had root canal." Bob Smith stated, "call me if you need anything."

D. KIM MASSEY

Massey is a physical trainer at Ash Creek Fitness, the gym that Gomola owns.

On January 18, 2012, she was with Gomola at the gym and his cell phone rang. He answered on speaker, she heard a voice, and she heard Gomola say: "I'm not supposed to be talking to you without a witness." She worked for the ambulance and recognized the Chief's voice from the radio. Also, Gomola was referring to him as "Chief."

PRIVILEGED AND CONFIDENTIAL

Gomola kept the phone call on speaker and Massey heard the conversation. The Chief asked to sit down and talk. The Chief said that he had been doing soul searching; that he spoke with his wife; that he shouldn't listen to other people's comments and go with his gut. It sounded to Massey like the Chief was crying. He said he couldn't sleep; he was talking to his wife; remember your past – I used to pick you up from football; let's let bygones be bygones. The conversation lasted approximately 10 minutes. Massey never heard anything about lawyers. The Chief asked whether Gomola was going through with actions. Gomola responded that he was going through with that and see what happened. She did not hear either individual make any threatening statements. The Chief sounded remorseful. Gomola didn't agree to sit down. Massey didn't hear anything about "taking any shots."

Massey had to run out right after to attend a class. She was not present when Gomola made his voice recording which summarized the conversation.

E. SHEILA TESSEI

Sheila Tessei is employed by the Town of Fairfield as the Secretary to the Fire Chief. She considers herself a friend of the Chief's. She labels her relationship with Gomola as "work acquaintances."

On January 10, 2012, she was working. She noticed Gomola walk out in the beginning of the meeting to get water or use the restroom and it appeared as if something was off. She later learned that he had a root canal and realized why. After the meeting, she saw the Assistant Chiefs leave. They left at approximately 1:00 p.m., before she went to lunch.

A few minutes after the meeting, the Chief came in to her office and closed the door and said, "I just slapped Gomola." He appeared to be smiling; however, he did not appear to be joking, she interpreted the smile as an indication that he could get away with it. After he stated this, he started ranting and raving about whatever he and Gomola were arguing about (which she could not recall).

Tessei was interviewed on three occasions and on each occasion, she stated that the Chief walked in her office after the incident and said: "I just slapped Gomola."

After the Chief received the complaint from Reid, the Chief went to Tessei's office and asked her to type a rebuttal. The Chief stayed in her office while she typed it. She believes he dictated it. She noticed that in his rebuttal, he didn't admit to slapping him – Tessei didn't say anything. She gave this interviewer a copy of his typed written statement.

After Chief went out pending investigation, Tessei went to the Chief's house with a bottle of wine to make sure he was okay. While Tessei was there, his wife said she was shocked, which Tessei interpreted to mean that the Chief had not admitted to slapping Gomola to his wife.

PRIVILEGED AND CONFIDENTIAL

She was working with the Chief on the seating arrangements for Swim Across the Sound. After the Chief went out pending investigation, they were supposed to meet on that following Friday. Chief asked Tessei to bring Gomola's sick time to the meeting. Tessei became uncomfortable and informed Reid. Reid instructed her not to go. Therefore, she simply faxed the seating arrangement information to the Chief's home. The Chief called her and asked whether she was coming to meet him, and she said that she would not, but that she would fax the seating arrangements to his home. They have not spoken since.

When this investigator asked Tessei if she told anyone what the Chief had told her she said "no".

F. RICHARD FELNER

He has been the Chief for thirteen years and has worked in the Department for fifty-three years.

The Chief has known Gomola since he was a child. The Chief used to drive Gomola to football.

Before the day of the Assistant Chiefs' meeting on 1/10, some of the members of the fire department were discussing their disapproval that Gomola called out sick from private duty job for the following day. He spoke to Reid and the other employees. The Chief was annoyed because Gomola was getting a minimum of four hours of overtime, yet called out sick for the following day.

At the Assistant Chiefs' meeting on 1/10, he saw that Gomola was texting a lot from his cell phone. The Chief said, "knock it off." At the meeting, they discussed new equipment that they needed. Prior to the meeting, there had been a complaint from Chavanella and others regarding the locker room smell in the office at Station 2. The Chief, knowing that Gomola owned a gym and worked out often, surmised where the smell came from; however, he tried not to get specific to not embarrass him. However, at some point during the meeting, Gomola asked for specifics and the Chief said: "it's you, George." Gomola seemed mad. The Chief thinks that this incident happening just before the discussion on the stairwell, is the motivation for making a false report that the Chief slapped him in the face.

During the meeting, Gomola seemed fine, and his cheeks did not seem swollen.

The meeting ended at approximately 1:00 p.m.

Before the meeting, the Chief had not planned to discuss the call out with Gomola, but then at some point decided to do it. He approached Gomola as the meeting ended and put his hand on Gomola's shoulder and said, "I want to talk to you." Gomola yelled: "don't hit me, I just had a root canal."

PRIVILEGED AND CONFIDENTIAL

The Chief then stated that he was aware that Gomola worked a private duty job and then called out sick for the next day and that it “really doesn’t look good;” it’s the talk amongst your peers. The Chief then said, “You better knock it off – there are other things – you know what I I’m talking about.” Gomola responded that he had “the runs.” The Chief then said, “Why did you continue working?” Gomola stated: “I can’t leave my post.” The Chief responded, “It doesn’t look right.” When they were leaving and the Chief opened door and asked whether he knew where to get an exercise bike. Gomola said, “no – I don’t know where you can buy that.” The Chief then opened the door and said, “OK– see you later” and then put his hand on his shoulder. Gomola then said, “I had a root canal.” Gomola exited through the door and went down the stairs.

The Chief reported that immediately after the incident, he walked right by Tessei and said, “I touched Gomola and he’s hollering - I had a root canal – I don’t know what that’s all about.” The Chief denies telling Tessei that he slapped Gomola.

He may have had a discussion with Reid after the incident to inform him of the conversation, but he is not sure.

The Chief denies knowing about the root canal before the hallway discussion. He was specifically asked on two occasions during two separate interviews whether he was aware of the root canal and he said no.

Reid left for Florida soon after the incident. The Chief received a call from Reid while Reid was in Florida and told him that he received a complaint that he hit Gomola and that it is serious. Reid said that he called Tom Bremmer and that he didn’t want to be Fairfield’s Paterno.

Reid sent the Chief a copy of the Complaint. After receiving the Complaint, the Chief went into Tessei’s office and showed her the Complaint and gave her a pad of paper with his handwritten notes and asked her to type them, which she did. She gave him a copy the typewritten version at that time.

Tessei came over with bottle of wine after his discussion with the Chief. They had planned to get together on the following day to put seating chart together for Swim Across the Sound. He asked Tessei to bring Gomola’s sick history report to their meeting the following day. The Deputy Chief then called the Chief the next day and said she’s not bringing the information.

The Chief believes that Gomola’s complaint is false. He believes that the reason that this false complaint was lodged against him was because they have had a number of disagreements about Gomola’s performance. The Chief has had to discipline Gomola for a variety of incidents over the last few years and that Gomola was retaliating against the Chief for doing so. He also believes that the discussion about the locker room smell in Gomola’s office at the Assistant Chiefs’ meeting also served as the motivation. Finally, the Chief noted that many drivers have

PRIVILEGED AND CONFIDENTIAL

requested to be removed from Gomola's shift and when the Chief had these discussions with Gomola, Gomola blamed the Chief. The Chief noted that when he met with Gomola during a disciplinary meeting at which the Chief issued Gomola a written warning in June 2011, Gomola stated: "everyone's time comes." The Chief believes that this statement is evidence animus against the Chief.

After he received the complaint from Reid (before going out pending investigation), Chief called Gomola (through Tessei) on Gomola's cell. The Chief apologized (and he was referring to singling him out at the Assistant Chiefs meeting about the smell of the gym equipment). The Chief asked to meet with Gomola to try to work it out and Gomola refused. Gomola said he was talking to a lawyer and the Chief said he had a lawyer too. The Chief denied saying that things could get ugly if they didn't work it out or anything of that nature. He also denies making any threatening statements.

The Chief reported that Tessei is very devoted to him and he trusts her implicitly.

IV. INVESTIGATOR'S CONCLUSIONS

Based upon the foregoing, I conclude that it was more likely than not that the Chief slapped Gomola knowing that he had just had a root canal. I make this finding because immediately after the incident, Tessei reports that the Chief told her: "I just slapped Gomola." This was a statement immediately after the incident and before any complaint was lodged. The Chief admitted that he spoke with Tessei immediately after. While he claims that he said, "I just touched Gomola," it does not seem credible that touching someone in a friendly way, as the Chief stated he did, would warrant specific discussion with Tessei afterwards. Moreover, Tessei had no incentive not to tell the truth. She seemed very devoted to the Chief – so much so that she went to his home to bring him a bottle of wine after the Chief went out pending investigation. Moreover, Tessei was such a confidant, that it was she that Chief trusted enough to type out his statement.

I also make this credibility determination based upon the fact that the Chief denied knowledge of Gomola's root canal before they had this discussion on the stairwell; however, he clearly contradicts his own statement, in which he admits that he asked him about the root canal that he had just had "on Sunday." In the Chief's written statement, he states:

I said to him you worked a job, called in while you were working and told the shift commander, book me off sick. I told him that really doesn't set a good example. He said he had the runs. I said why did and how did you keep working? Your peers brought this to my attention. He said nothing about his daughter having the runs as he said in his statement. I'm sure someone else would have worked for you. ***I heard you had root canal and called in sick***

PRIVILEGED AND CONFIDENTIAL

Sunday night. You had a root canal on Sunday? He said yes.

That ended the conversation.....

[Emphasis supplied.] The Chief specifically stated that he was not aware of the root canal and given the fact that his written statement prepared within a few days of the incident suggests that he very clearly knew about it- knew what day it was and knew that Gomola had called in sick on a Sunday.

Even if Gomola had been disciplined or criticized on many occasions prior to Gomola lodging the complaint and even if the two did not get along, that fact does not give Tessei the incentive to misrepresent the Chief's admission. Particularly, when, Tessei was a much closer confidant of the Chief and only a work acquaintance of Gomola. Moreover, it was reported to me by Reid that Tessei was nervous over the fact that the Chief admitted "slapping" Gomola to her immediately following the incident because of the investigation that would soon be underway. Additionally, it appeared that Gomola did not have an easy time bringing this matter to Reid evidenced by his needing time to think about how he wanted to proceed before Reid passed the information along to Tom Brenner.

I also make the conclusion that the Chief did not intend to physically hurt Gomola

Finally, I do not conclude that the Chief intended to threaten Gomola when he placed the call to Gomola while Gomola was at the gym after Reid forwarded Gomola's complaint to the Chief. However it was interpreted by Gomola, Massey, who overheard the conversation through Gomola's speaker phone, stated that the Chief sounded remorseful and did not say anything that she viewed as threatening.